

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Accessibility of User Interfaces and Video)	MB Docket No. 12-108
Programming Guides and Menus)	
)	

To: Chief, Media Bureau

**FIAT CHRYSLER AUTOMOBILES US LLC
PETITION FOR WAIVER OF THE
COMMISSION’S RULES REQUIRING ACCESSIBILITY OF VIDEO PROGRAMMING**

Founded by pioneering American automaker Walter P. Chrysler in 1925, FCA US LLC (“FCA US”) is a North American automaker headquartered in Auburn Hills, Michigan. FCA US is a member of the Fiat Chrysler Automobiles N.V. family of companies and is the seventh-largest automaker in the world based on total annual vehicle sales. FCA designs, engineers, manufactures and sells vehicles under the Chrysler, Dodge, Jeep, Ram and FIAT brands. In 2016, FCA employed about 83,800 people and shipped 2.6 million vehicles.

FCA US is pleased to advise the Federal Communications Commission (“Commission” or “FCC”) that the company has acted to comply with the Twenty-First Century Communications and Video Accessibility Act of 2010 (“CVAA”)¹ and has closely coordinated with its vendors to incorporate accessible user interfaces and video programming guides and menus in the rear-

¹ Pub. L. No. 111-260, 124 Stat. 2751 (2010) (as codified in various sections of 47 U.S.C.). *See also* Amendment of Twenty-First Century Communications and Video Accessibility Act of 2010, Pub. L. No. 111-265, 124 Stat. 2795 (2010) (making technical corrections to the CVAA).

seat video systems in FCA US vehicles.² Specifically, FCA US and its vendors have designed and timely installed a system whereby individuals have access to video description³ and closed captioning⁴ functionality while riding in those eight FCA US vehicle models that contain rear-seat video systems.

Due to a supplier error, however, approximately 7,176 Dodge Journey vehicles equipped with rear-seat video capability and manufactured between approximately January 3, 2017 and February 23, 2017 were released to dealerships without the necessary audio files that enable video description. FCA regrets this inadvertent error. Of the non-compliant vehicles, as of this filing, approximately 2,736 have been identified prior to sale, and either are already, or will be, remedied by FCA US's dealers prior to sale. As discussed below, out of an abundance of caution, FCA US respectfully requests retroactive waiver of Section 79.109(c) of the Commission's rules as it pertains to video description accessibility for the 2,736 unsold vehicles.

As to the sold vehicles, FCA US is fully engaged in a comprehensive effort to notify the new owners of the issue and to urge them to update their vehicles. Further, FCA US's dealers will install the requisite audio files into any and all of the sold vehicles that are brought in for service for whatever reason, *i.e.*, the audio file update will be completed regardless of the reason for the visit. FCA US cannot compel these vehicle owners to bring their vehicles into its dealerships, however. For this reason, FCA US respectfully requests full waiver of Section 79.109(c) of the Commission's rules as it pertains to video description accessibility for the 4,440 sold vehicles.

² See *Accessibility of User Interfaces and Video Programming Guides and Menus*, Report and Order and Further Notice of Proposed Rulemaking, MB Docket No. 12-108, 28 FCC Rcd 1733021 (2013).

³ See 47 CFR §79.109(a)(2).

⁴ See *id.* at (b).

Background. Beginning in 2013, FCA US took substantial steps to design a rear-seat video system with accessibility features in accordance with the Commission’s CVAA rules. As noted earlier, FCA US offers rear-seat video systems in eight vehicle models. Timely deployed in the Chrysler Pacifica, Dodge Grand Caravan, Dodge Durango, Jeep® Compass, Jeep Patriot, Jeep Wrangler, Jeep Grand Cherokee, and Dodge Journey models beginning on December 20, 2016,⁵ the rear-seat video system installed in these vehicles provides closed captioning and video description for the benefit of rear-seat passengers. The closed captioning and video description accessibility solutions each depend on a unique code and data files in the vehicle computer system, located in the radio console. All of the vehicles listed above comply with the CVAA.

As noted earlier, each of FCA US’s accessibility solutions—closed captioning and video description—depend on software and audio files located in the vehicle’s radio console. Just prior to December 20, 2016, FCA US’s supplier provided radios equipped with both the software and audio files necessary for the accessibility solutions. FCA US began installing these radios on December 20, 2016 and thus FCA US timely complied with section 79.109(c) of the Commission’s rules. Unbeknownst to FCA US, on January 3, 2017, the supplier inadvertently failed to equip radios designed for Dodge Journey vehicles with the video description accessibility audio files. FCA US became aware of the issue and resumed installing compliant radios on February 23, 2017. FCA notes that the issue affects only video description accessibility. The closed captioning function is unaffected.

⁵ Pursuant to 47 CFR § 79.109(c), December 20, 2016 was the date for compliance with the new rules.

Upon discovering the video description error in the limited number of vehicles, FCA US undertook extensive remediation efforts. First, FCA US notified its approximately 2,600 U.S. dealers about the issue and electronically flagged the Vehicle Identification Number (“VIN”) of the affected vehicles. This action enabled FCA US to identify non-compliant vehicles, determine whether a given vehicle remains unsold, and prevent its dealers from selling any unsold vehicles without first installing the video description audio files. FCA US is also contacting new owners to explain the importance of the video description capability feature and provide assurance that FCA will resolve the issue at no cost.

Request for Retroactive Waiver for Unsold Vehicles. FCA US is closely coordinating with its dealers to ensure that the unsold vehicles are remedied quickly and that no vehicle is sold without a fully functioning video description capability. In fact, given FCA US’s early action, no dealer can sell a vehicle without first completing the necessary remedy because FCA US has flagged the affected vehicles and instructed dealers to act as soon as possible to update the computer code and verify that the video description capability functions. Some dealers may choose to update the radio inside a flagged vehicle until just before sale during the pre-delivery process. Regardless, for all of the 2,736 vehicles manufactured but not sold, their future new owners will have fully compliant vehicles from day one.

For the unsold vehicles and out of an abundance of caution, therefore, FCA US respectfully requests a retroactive waiver of Section 79.109(c) of the Commission’s rules as it pertains to video description accessibility from January 3, 2017 through the date a currently unsold vehicle is sold (with a functioning video description capability).

Request for Waiver for Sold Vehicles. As to the sold vehicles, as an initial matter, FCA US notes that over 70 percent of new owners return to the dealer sometime within the first year of purchase. This means that at least 3,108 of the 4,440 could be updated during the first year of ownership. Given that FCA US has flagged the VINs, whenever a new owner returns to the dealer for any reason, the video description issue would be identified right away and resolved at no charge.

Nevertheless, FCA US is undertaking an extensive campaign to notify the new owners, explain the importance of the video description capability feature, and provide assurance that the issue would be resolved at no cost by making a quick stop at the dealership. A representative copy of the customer notice is attached as Exhibit A. In addition to the written notification, FCA US's consumer representatives are personally contacting the new owners by telephone to ensure awareness of the video description issue, stress its importance, and to urge dealership visits for the purpose of obtaining a complimentary radio code update.

While FCA US is fully engaged in a comprehensive effort to contact the 4,440 new owners, FCA US cannot force these owners to update their vehicles. Accordingly, FCA respectfully requests a permanent waiver of Section 79.109(c) of the Commission's rules for the 4,440 sold vehicles.

Waiver Analysis. The Commission has the authority to waive a rule "if good cause therefor is shown."⁶ To waive a requirement for good cause, the Commission must explain: (1)

⁶ 47 CFR § 1.3.

why deviating from the general requirement serves the public interest; and (2) the nature of the special circumstances.⁷ Both criteria are met in this case.

Waiver of the video description capability would serve the public interest. First, given its early and dedicated efforts to design a rear-seat video system with accessibility features in accordance with the CVAA and the Commission's rules, FCA US timely deployed compliant rear-seat video systems in an array of vehicles. Next, the instant request is discrete in scope. FCA US requests waiver for a relatively small number of vehicles and to cover only one of the two accessibility requirements.⁸ Specifically, FCA US seeks waiver for one out of eight models, which represents only 3.2 percent of the total number of FCA US vehicles equipped with rear-seat video systems manufactured between December 20, 2016 and June 2, 2017.

Additionally, the technical remedy is already at hand. As explained above, bringing the vehicles into full compliance can be accomplished with an easy, quick file upload and at no charge to its owner. And, FCA US has already begun installing the audio files in unsold vehicles and contacting owners of affected vehicles.

FCA US took a proactive approach to timely comply with the accessibility requirements in the first instance. Upon learning of the shortcoming, FCA US sought to conclusively resolve the issue by devising a technical solution. FCA quickly notified its dealers and new owners of the issue and the remedy. Given the discrete nature of and FCA US's comprehensive approach to resolving the issue, a waiver in this case would serve the public interest.

⁷ See *NetworkIP, LLC v. FCC*, 548 F.3d 116, 127 (D.C. Cir. 2008); *Northeast Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990). See also *Accessibility of User Interfaces, and Video Programming Guides and Menus*, Memorandum Opinion and Order, MB Docket No. 12-108, DA 17-260, 32 FCC Rcd 1926 (rel. Mar. 16, 2017) (granting Honda Motor Co., Ltd. a 20-month extension of the Commission's rules requiring the accessibility of user interfaces on covered digital apparatus for certain Honda vehicles).

⁸ Cf. *id.* (Honda was apparently unaware of the CVAA requirements).

Likewise, compelling special circumstances warrant waiver of the December 20, 2016 compliance deadline in this case. FCA US has demonstrated its solid commitment to achieving the goals of the CVAA and the Commission's rules. The company has successfully developed and integrated accessibility features for rear-seat video systems in an array of models. Immediately upon discovering the faulty video description accessibility radio code, FCA US has mustered its dealers and customer service personnel to engage in an intensive effort to bring a relatively small set of vehicles into full compliance quickly at no charge to the vehicle owner.

Moreover, FCA US dealers have already remedied or will remedy the unsold vehicles so that their owners will enjoy fully functioning video description capability in rear-seat video systems beginning with their first drive. And, even though more than 70 percent of new owners return to dealerships sometime within the first year after purchase, FCA US is not content to wait. Rather, the company's consumer assistance personnel are already busy contacting owners to explain the issue, and to urge brief dealership visits for the purpose of obtaining the necessary audio file installation at no charge.

Conclusion. As discussed above, waiver of the video description capability would serve the public interest and compelling special circumstances warrant waiver in this case.

Accordingly, FCA US respectfully requests retroactive waiver of Section 79.109(c) of the Commission's rules as it pertains to video description accessibility to cover the 2,736 unsold vehicles. As to the sold vehicles, FCA US remains fully committed to ensuring that these new owners are aware of the availability of a free remedy; however, FCA US cannot force them to update their vehicles even after extraordinary outreach efforts. Therefore, FCA US respectfully

requests full waiver of Section 79.109(c) of the Commission's rules as it pertains to video description accessibility for the 4,440 sold vehicles.

Respectfully submitted,

/s/

Angela E. Giancarlo
Mayer Brown LLP
1999 K Street, NW
Washington, DC 20006

Counsel for Fiat Chrysler Automobiles US, LLC

June 6, 2017

Exhibit A

This notice applies to your vehicle:

[Model Year and Model]

XXXXXXXXXX

T39

LOGO

VEHICLE PICTURE

YOUR SCHEDULING OPTIONS:

1. **RECOMMENDED OPTION:**
Call your authorized Chrysler /
Dodge / Jeep® / RAM Dealer.
2. Call the FCA Assistance Center
at **1-800-853-1403**. An agent will
be pleased to help schedule an
appointment for you.
3. Visit our Website,
recalls.mopar.com or scan below.

QR Code

You can find your nearest dealer and
review all of your scheduling options
from this website. You will be asked
to provide your Vehicle Identification
Number (VIN) to protect and verify
your identity.

**DEALERSHIP
INSTRUCTIONS**

Please reference CSN T39.

CUSTOMER SATISFACTION NOTIFICATION

Video Description Accessibility in Rear-Seat Video System

Dear [Name],

We highly recommend that you agree to let us perform the improvement discussed below on your [2017 Model Year Dodge Journey] vehicle, which is equipped with a rear-seat video system. This improvement will be made to your vehicle at no charge to you.

WHY DO I NEED TO VISIT MY DEALER?

The Federal Communications Commission requires video description accessibility, which enables blind or sight-impaired passengers to enjoy video entertainment in rear-seat video systems. However, we believe that the video description accessibility feature on your vehicle may not function properly.

HOW DO I RESOLVE THIS ISSUE?

FCA will repair your vehicle free of charge (parts and labor). To do this, your dealer will install additional audio files in the radio. We strongly recommend that you schedule a service appointment so that we can complete this important update with minimal inconvenience. There is no cost for this repair. Please bring this letter with you to your dealership.

**TO SCHEDULE YOUR FREE REPAIR CALL 1-800-853-1403
OR YOUR CHRYSLER, DODGE, JEEP OR RAM DEALER TODAY**

We apologize for any inconvenience. It is important that your vehicle is compliant with federal accessibility rules. Thank you for your attention to this important matter.

Customer Assistance/Field Operations
Fiat Chrysler Automobiles US LLC



[Reverse side. Customer name and address appears in envelope window.]

**Mr. Mrs. Customer
1234 Main Street
Hometown, MI 48371**

If you no longer own this vehicle, please help us update our records. Call the FCA Assistance Center at 1-800-853-1403 to update your information.